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In re Application of	:	
Thomas W. BAKKER	:	DECISION ON
Application No.: 09/889,661	:	
PCT No.: PCT/NL00/00037	:	
Int. Filing Date: 19 January 2000	:	PETITION UNDER
Priority Date: 19 January 1999	:	
Attorney Docket No.: W422.312-6	:	
For: PIPE HANDLING APPARATUS AND	:	37 CFR 1.181
MEHTOD	:	

This decision is in response to the "PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT PURSUANT TO 37 C.F.R. 1.181(a)" received 06 April 2004 requesting that applicant timely and properly replied to the Notification of Missing Requirements on October 16, 2001, by Express Mail. Applicant has submitted, inter alia, a copy of the 16 October 2001 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: Declaration and Power of Attorney.

### **BACKGROUND**

On 18 July 2001, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, and a postcard return. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter at such time.

On 29 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.

On 27 February 2004, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) which indicated that the application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 29 August 2001 (no reply was received).

06 Apr 2004

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 27 February 2004, applicant submitted on ~~18 July 2001~~ the instant petition requesting withdrawal of the Notice of Abandonment. In support of the request, applicant has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 16 October 2001, within the time period of response.

### DISCUSSION

Applicant's present petition accompanied by a copy of the following documents, filed purportedly with the USPTO as indicated in the stamped postcard:

- (1) Check in the amount of \$170.00
- (2) Response to Notice to File Missing Parts of Application
- (3) Declaration and Power of Attorney

The postcard lists the above items and bears a USPTO date of stamp as 16 October 2001.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Declaration was deposited with the U.S. Patent and Trademark Office on 16 October 2001.

Accordingly, the date of receipt for the Declaration is 16 October 2001.

### DECISION

The petition under 37 CFR 1.181 is **GRANTED**. The Notification of Abandonment (PCT/DO/EO/909) mailed 27 February 2004 was in error and is hereby **VACATED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date is **16 October 2001**.



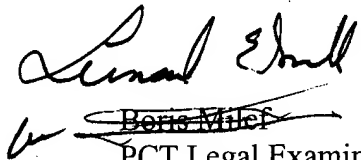
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